

REMARKS

This paper is filed in response to the final Office action mailed on January 20, 2010. Claims 9 and 10 are added, leaving claims 1-2 and 4-10 pending in the present application. In view of the foregoing amendments and following comments, Applicant respectfully requests reconsideration and allowance of all pending claims.

Support for Amended and/or New Claim Language

The amendments to the claims presented herein do not add new matter. It is well settled that the specification need not reproduce the exact language of the claims to satisfy the written description requirement of §112, first paragraph. *In re Wright*, 9 U.S.P.Q.2d 1649, 1651 (Fed. Cir. 1989)(“the claimed subject matter need not be described in haec verba in the specification in order for that specification to satisfy the written description requirement”). The written description requirement of §112 can even be satisfied based **solely** on the drawings of a patent application. *Vas-Cath Inc. v. Mahurkar*, 19 U.S.P.Q.2d 1111, 1118 (Fed. Cir. 1991)(“These cases support our holding that, under proper circumstances, drawings alone may provide ‘written description’ of an invention as required by §112”). Accordingly, the amended and/or new claim language finds adequate support in the specification and drawings as originally filed, as discussed in greater detail below.

More specifically, claim 1 is amended to recite that the counter display is adapted to be suspended from a ceiling, as described on page 3, lines 30-35 of the original specification and as clearly shown in Figs. 3 and 4. Additionally, claim 1 is amended to specify a display element configured to support the articles that is coupled to the vertical panel lower end and oriented relative to the vertical panel at an angle of less than 135°. Support for this language is found in the original specification at page 3, lines 30-35 and page 4, lines 30-32, as well as Figs. 1-4. Claim 1 is further amended to recite that the pivot structure has a first end coupled to the vertical panel upper end and a second end coupled to the ceiling, and that the pivot structure first end is rotatable relative to the pivot structure second end around only a vertical pivot axis. Support for this language is found in the original specification at page 5, lines 1-19 and Figs. 1-4, which disclose a pivot structure capable only of rotation around a vertical axis.

Claim 4 is amended to recite that the support panel has a rear face opposite the mirror, as disclosed in the original specification at page 4, lines 24-28 and Fig. 2-4. Additionally, claim 4 is amended to recite that the counter display has a lower face tilted downward under the display element and the rear face and lower face have lighting systems attached thereto. Support for this amended claim language is found in the original specification at page 5, lines 27-32 and Figs. 3-4.

New claim 9 recites that the mirror is flat, as clearly shown in Figs. 1-4. Finally, new claim 10 recites that the vertical panel is extended downward via a support panel to which the display element is attached, the support being tilted downward relative to the vertical panel at an angle of less than 135°. Support for this language is found in the original specification at page 3, line 39 to page 4, line 11 and page 4, lines 30-32, as well as Figs. 1-2.

Accordingly, the specification and drawings as originally filed provide a clear depiction of the subject matter now claimed which would permit one skilled in the art to clearly recognize applicant's possession of the claimed invention, and therefore the amended and/or new claim language does not introduce new matter. Entry and consideration of the amended claim set is respectfully requested.

Claim Rejections – 35 U.S.C. §103

Turning to the prior art rejections, claims 1, 2 and 4-8 were rejected under 35 U.S.C. §103(a) as obvious over U.S. Patent No. 4,776,650 ("Ferenzi") in view of U.S. Patent No. 4,121,720 ("Hayes"). To support an obviousness rejection, however, MPEP §2143.03 requires "all words of a claim to be considered" and MPEP § 2141.02 requires consideration of the "[claimed] invention and prior art as a whole." Further, the Board of Patent Appeals and Interferences has confirmed that a proper, post-*KSR* obviousness determination still requires the Office to make "a searching comparison of the claimed invention – including all its limitations – with the teaching of the prior art." *See, In re Wada and Murphy*, Appeal 2007-3733, citing *In re Ochiai*, 71 F.3d 1565, 1572 (Fed. Cir. 1995). Applicant submits that none of the proposed combinations of prior art discloses every limitation of the pending claims, thereby overcoming the aforementioned rejections, as discussed more specifically below.

Independent claim 1, as well as claims 2 and 4-10 depending directly or indirectly thereon, specifies a display for articles adapted to be suspended from a ceiling. The display includes a connecting element including a vertical panel and a display element coupled to the vertical panel. A pivot structure includes a first end coupled to the vertical panel upper end and a second end coupled to the ceiling. The pivot structure first end is rotatable relative to the pivot structure second end around only a vertical pivot axis. It is not seen that the proposed combination of prior art discloses or teaches each element of independent claim 1.

More specifically, the proposed combination of Ferenzi and Hayes fails to disclose or suggest a display adapted for suspension from a ceiling that includes a pivot structure having a first end rotatable relative to a second end only around a vertical pivot axis, as specified in independent claim 1. Ferenzi discloses a wall mounted cosmetic center 10. As such, the cosmetic center 10 is shown in Fig. 2 as mounted in cantilever fashion from a supporting structure such as a wall. Ferenzi does not disclose or teach any structure, pivotable or otherwise, for supporting the cosmetic center from the ceiling. Accordingly, Ferenzi fails to disclose or suggest a pivot structure having a first end coupled to a vertical panel and a second end coupled to the ceiling, wherein the first end is rotatable relative to the second end only around a vertical pivot axis, as now recited in claim 1.

The secondary reference of Hayes fails to supply the deficiencies of Ferenzi noted above. More specifically, Hayes teaches an apparatus for displaying jewelry that includes an upper display disc 14 coupled to a head fixture 20. An unnumbered suspension chain has a first end coupled to the head fixture 20 and a second end coupled to a wall bracket 54. The suspension chain of Hayes permits movement of the display apparatus in any of the six possible degrees of freedom (i.e., translation along the X, Y, and Z axes as well as rotation about each of the X, Y, and Z axes). Furthermore, any rotation of the suspension chain about its vertical axis will necessarily induce translation of the display apparatus along at least the vertical axis due to the interaction of the links of the chain as they are twisted about each other. Thus, to the extent the suspension chain is considered to be responsive to the claimed pivot structure, then it is clear that the suspension chain does not include a first end that is rotatable relative to a second end only around a vertical pivot axis, as specified in claim 1. Accordingly, the proposed combination of

Ferenzi and Hayes fails to disclose or suggest each element of independent claims 1, and therefore each of the pending claims is patentable over the proposed combination of prior art.

Additionally, the prior art references are improperly combined. Ferenzi teaches a wall mounted cosmetic center that is fixed to a wall. Should the Ferenzi cosmetic center be modified to be suspended by the chain of Hayes, then the cosmetic center would be rendered uselessly unstable and subject to the contents of the cosmetic center falling out. Such a combination would lack the stability provided by the currently claimed subject matter, which allows only one degree of freedom, thereby supporting the display in a consistent location while permitting rotation thereof around only a vertical axis. Conversely, one of ordinary skill would not modify Hayes to be more stably rotated, as Hayes teaches the use of a cylindrical mirror 30 which permits a user to view his/her reflection from any side of the Hayes apparatus without necessitating rotation of the apparatus. Because the proposed combination would render Ferenzi useless for its intended purpose, the proposed combination is improper and therefore the rejection based thereon must be withdrawn.

CONCLUSION

It is submitted that the present application is in good and proper form for allowance. A favorable action on the part of the Examiner is respectfully solicited. If, in the opinion of the Examiner, a telephone conference would expedite prosecution of the subject application, the Examiner is invited to call the undersigned attorney.

The Patent Office is hereby authorized to credit any overpayment or charge any deficiency in the fees filed, asserted to be filed, or which should have been filed herewith to our Deposit Account No. 50-3629.

Respectfully submitted,
MILLER, MATTHIAS & HULL

July 20, 2010

By: /brent e matthias/
Brent E. Matthias, Reg. No. 41,974
One North Franklin, Suite 2350
Chicago, Illinois 60606
(312) 977-9902